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REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-EIGHTH SESSION

6 May-26 July 1996

CHAPTER I

INTRODUCTION

1. The International Law Commission established in pursuance of General Assembly resolution 174 (II) of 21 November 1947, in accordance with its Statute annexed thereto, as subsequently amended, held its forty-eighth session at its seat at the United Nations Office at Geneva, from 6 May to 26 July 1996.

A. Membership

2. The Commission consists of the following members:

Mr. Husain Al-Baharna (Bahrain)
Mr. Awn Al-Khasawneh (Jordan)
Mr. Gaetano Arangio-Ruiz (Italy)
Mr. Julio Barboza (Argentina)
Mr. Mohamed Bennouna (Morocco)
Mr. Derek William Bowett (United Kingdom)
Mr. Carlos Calero Rodrigues (Brazil)
Mr. James Crawford (Australia)
Mr. John de Saram (Sri Lanka)
Mr. Gudmundur Eiriksson (Iceland)
Mr. Nabil Elaraby (Egypt)
Mr. Salifou Fomba (Mali)
Mr. Mehmet Gũney (Turkey)
Mr. Qizhi He (China)

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Mr. Kamil Idris (Sudan)

Mr. Andreas Jacovides (Cyprus)

Mr. Peter Kabatsi (Uganda)

Mr. Mochtar Kusuma-Atmadja (Indonesia)

Mr. Igor Ivanovich Lukashuk (Russian Federation)

Mr. Ahmed Mahiou (Algeria)

Mr. Vaclav Mikulka (Czech Republic)

Mr. Guillaume Pambou-Tchivounda (Gabon)

Mr. Alain Pellet (France)

Mr. Pemmaraju Sreenivasa Rao (India)

Mr. Edilbert Razafindralambo (Madagascar)

Mr. Patrick Lipton Robinson (Jamaica)

Mr. Robert Rosenstock (United States)

Mr. Alberto Szekely (Mexico)

Mr. Doudou Thiam (Senegal)

Mr. Christian Tomuschat (Germany)

Mr. Edmundo Vargas Carreño (Chile)

Mr. Francisco Villagran Kramer (Guatemala)

Mr. Chusei Yamada (Japan)

Mr. Alexander Yankov (Bulgaria)

B. Officers and the Enlarged Bureau

3. At its 2426th meeting, on 6 May 1996, the Commission elected the following officers:

Chairman:	Mr. Ahmed Mahiou
First Vice-Chairman:	Mr. Robert Rosenstock
Second Vice-Chairman:	Mr. Mochtar Kusuma-Atmadja
Chairman of the Drafting Committee:	Mr. Carlos Calero Rodrigues
Rapporteur:	Mr. Igor Ivanovich Lukashuk

4. The Enlarged Bureau of the Commission was composed of the officers of the present session, previous Chairmen of the Commission [1] and the

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[1] Namely, Mr. Julio Barboza, Mr. Doudou Thiam, Mr. Christian Tomuschat, Mr. Alexander Yankov and Mr. Rao.

Special Rapporteurs. [2]

5. On the recommendation of the Enlarged Bureau, the Commission, at its 2427th meeting, on 7 May 1996, set up a Planning Group composed of the following members: Mr. Robert Rosenstock (Chairman), Mr. Derek William Bowett, Mr. Carlos Calero Rodrigues, Mr. James Crawford, Mr. Mehmet Gũney, Mr. Kamil Idris, Mr. Mochtar Kusuma-Atmadja, Mr. Ahmed Mahiou, Mr. Vaclav Mikulka, Mr. Alain Pellet, Mr. Pemmaraju Sreenivasa Rao, Mr. John de Saram, Mr. Doudou Thiam, Mr. Christian Tomuschat and Mr. Chusei Yamada.

C. Drafting Committee

6. At its 2427th meeting, on 7 May 1996, the Commission established a Drafting Committee composed of the following members for the topics indicated:

Draft Code of Crimes against the Peace and Security of Mankind:

Mr. Carlos Calero Rodrigues (Chairman), Mr. Doudou Thiam (Special Rapporteur), Mr. Gudmundur Eiriksson, Mr. Nabil Elaraby, Mr. Salifou Fomba, Mr. Qizhi He, Mr. Mochtar Kusuma-Atmadja, Mr. Vaclav Mikulka, Mr. Robert Rosenstock, Mr. John de Saram , Mr. Alberto Szekely, Mr. Christian Tomuschat, Mr. Chusei Yamada, Mr. Alexander Yankov, and Mr. Igor Ivanovich Lukashuk (Ex-officio member).

State Responsibility:

Mr. Carlos Calero Rodrigues (Chairman), Mr. Mohamed Bennouna, Mr. Derek William Bowett, Mr. James Crawford, Mr. Gudmundur Eiriksson, Mr. Qizhi He, Mr. Peter Kabatsi, Mr. Vaclav Mikulka, Mr. Alain Pellet, Mr. Robert Rosenstock, Mr. John de Saram, Mr. Alberto Szekely, Mr. Christian Tomuschat, Mr. Francisco Villagran Kramer, Mr. Chusei Yamada and Mr. Igor Ivanovich Lukashuk (Ex-officio member).

7. The Drafting Committee held a total of 34 meetings on the above topics.

D. Working Groups

8. At its 2435th meeting, on 4 June, the Commission established a Working Group on State succession and its impact on the nationality of natural and legal persons which was composed of: Mr. Vaclav Mikulka (Chairman), Mr. Husain Al-Baharna, Mr. Awn Al-Khasawneh, Mr. Derek William Bowett, Mr. James Crawford, Mr. Salifou Fomba, Mr. Kamil Idris, Mr. Igor Lukashuk, Mr. Robert Rosenstock, Mr.

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[2] Namely, Mr. Gaetano Arangio-Ruiz, Mr. Julio Barboza, Mr. Vaclav Mikulka, Mr. Alain Pellet and Mr. Doudou Thiam.

Albert Szekely, Mr. Christian Tomuschat, Mr. Edmundo Vargas-Carreño, Mr. Chusei Yamada.

9. At its 2450th meeting, on 28 June, the Commission established a Working Group on International liability for injurious consequences arising out of acts not prohibited by international law, which was composed of: Mr. Julio Barboza (Chairman), Mr. Husain Al-Baharna, Mr. Mohamed Bennouna, Mr. James Crawford, Mr. Gudmundur Eiriksson, Mr. Salifou Fomba, Mr. Peter Kabatsi, Mr. Igor Ivanovich Lukashuk, Mr. Patrick Lipton Robinson, Mr. Robert Rosenstock, Mr. Alberto Szekely and Mr. Francisco Villagran Kramer.

10. The Working Group on the Long-term programme of work was re-established and was composed of: Mr. Derek William Bowett (Chairman), Mr. James Crawford, Mr. Qizhi He, Mr. Mochtar Kusuma-Atmadja, Mr. Igor Ivanovich Lukashuk, Mr. Alain Pellet, Mr. Robert Rosenstock and Mr. Chusei Yamada.

E. Secretariat

11. Mr. Hans Corell, Under-Secretary-General for Legal Affairs, the Legal Counsel, attended the session and represented the Secretary-General. Mr. Roy S. Lee, Director of the Codification Division of the Office of Legal Affairs, acted as Secretary to the Commission and, in the absence of the Legal Counsel, represented the Secretary-General. Ms. Mahnoush H. Arsanjani, Senior Legal Officer, served as Senior Assistant Secretary to the Commission; Ms. Christiane Bourloyannis-Vrailas, Mr. George Korontzis and Ms. Virginia Morris, Legal Officers, served as Assistant Secretaries to the Commission.

F. Agenda

12. At its 2426th meeting, on 6 May 1996, the Commission adopted an agenda for its forty-eighth session consisting of the following items:

1. Organization of work of the session.
2. State responsibility.
3. Draft Code of crimes against the peace and security of mankind.
4. International liability for injurious consequences arising out of acts not prohibited by international law.
5. The law and practice relating to reservations to treaties.
6. State succession and its impact on the nationality of natural and legal persons.

7. Programme, procedures and working methods of the Commission and its documentation.

8. Cooperation with other bodies.

9. Date and place of the forty-ninth session.

10. Other business.

G. Summary of the work of the Commission at its forty-eighth session

13. The Commission considered all the items on its agenda. The first seven weeks were allocated mainly to the Drafting Committee for it to complete the second reading of the articles on the draft Code on crimes against the peace and security of mankind, and the first reading of draft articles on State responsibility.

14. The Commission adopted a set of 20 articles constituting the draft Code of crimes against the peace and security of mankind and commentaries thereto (Chapter II below). The Commission recommended that ...

15. The Commission completed on first reading a set of 60 draft articles (with annexes) on State responsibility (Chapter III below). The Commission decided to transmit the draft articles (and relevant commentaries thereto), to Governments of member States for comments to be submitted to the Secretary-General by 1 January 1998.

16. Regarding the topic of State succession and its impact on the nationality of natural and legal persons, the Commission set out its recommendations to the General Assembly regarding the Commission's plan and approach to be followed on that topic in its future sessions (Chapter IV below).

17. Concerning the topic of International liability for injurious consequences arising out of acts not prohibited by international law, the Commission decided to transmit the report of the Working Group on the subject (consisting of 23 draft articles and commentaries thereto) to the General Assembly and to Governments for comments (Chapter V below).

18. With respect to the topic of the Law and practice relating to reservations to treaties, the Commission decided to examine the second report of the Special Rapporteur at its next session (Chapter VI below).

19. With respect to its programme, procedure and working methods and in response to issues raised in paragraph 9 of General Assembly resolution 50/45 of 11 December 1995, the Commission adopted specific conclusions and recommendations which are contained in Chapter VII, Section A, subsection 1 below.

20. With respect to the long-term programme of work, the Commission, inter alia, set out a general outline of the main legal problems raised by

three of the possible future topics which in the view of the Commission are ready for codification and progressive de opment (Chapter VII, Section A, subsection 2 below and Annex II).

21. Other relevant decisions and conclusions are contained in Chapter VII, Sections B, C, D, E and F, dealing respectively with cooperation with other bodies, date and place of the forty-ninth session, representation at the fifty-first session of the General Assembly, the International Law Seminar and the Gilberto Amado Memorial Lecture.

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